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EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary**Application No.**

09/583,216

Applicant(s)

LEONARDO ET AL.

Examiner

VANDEL FRENEL

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Response filed on 06/20/08. Claims 21-45 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 21-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidyanathan et al. (20040059596) in view of Campbell (20010041993), for substantially the same reasons given in the prior Office Action, and incorporated herein. Further reasons are presented below.
(A) As per claim 21, Vaidyanathan discloses a computer-implemented method for a network-based facility, the method comprising: receiving a complaint from a first party, the complaint relating to a network-based transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044); communicating information about the complaint to the second party (See Vaidyanathan, Fig.6, Page 5, Paragraphs 0057-0060); allowing the first party and the second party to repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board (See Vaidyanathan, Page 7, Paragraphs 0076-0078);

allowing the first party to specify if the complaint is resolved (See Vaidyanathan, Page 7, Paragraphs 0077-0079).

Vaidyanathan does not explicitly disclose allowing the first party to file an insurance claim concerning the complaint relating to the network-based transaction only if the complaint relating to the network-based transaction is not resolved and after a first criteria have been met.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggested that the method having allowing the first party to file an insurance claim concerning the complaint relating to the network-based transaction only if the complaint relating to the network-based transaction is not resolved and after a first criteria have been met (See Campbell, Fig.3; Page 5, Paragraph 0045 & 0048).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Vaidyanathan with the motivation of providing a computer-based method and system for managing insurance claims (See Campbell, Page 1, Paragraph 0006).

(B) As per claim 22, Vaidyanathan discloses the computer-implemented method for a network-based facility, the method further comprising: allowing the second party to obtain additional contact information about the first party after the first party has filed a complaint about the network-based transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044).

(C) As per claim 23, Vaidyanathan discloses the computer-implemented method for a network-based facility, the method further comprising: displaying legal services to the first party if the complaint is not resolved and after a second criteria have been met. (See Vaidyanathan, Page 6, Paragraphs 0064-0066).

(D) As per claim 24, Campbell discloses the computer-implemented method for a network-based facility wherein the legal services comprise an attorney general associated with an area located where the second party resides (See Campbell, Fig.3; Page 5; Paragraphs 0045-0046).

(E) As per claim 25, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the legal services comprise US Postal Inspection service (The Examiner interprets government to be a form of US Postal Inspection See Vaidyanathan, Page 1, Paragraph 0007).

(F) As per claim 26, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the second criteria comprise an amount of time to lapse since the network-based transaction occurred (See Vaidyanathan, Page 2, Paragraph 0020).

(G) As per claim 27, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise an amount of time to lapse

since the network-based transaction occurred (See Vaidyanathan, Page 2, Paragraph 0020).

(H) As per claim 28, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise the complaint about the network-based transaction having been entered within a specified amount of time after the network-based transaction occurred (See Vaidyanathan, Page 2, Paragraph 0020).

(I) As per claim 29, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise a minimum feedback amount (See Vaidyanathan, Page 4, Paragraphs 0035-0038).

(J) As per claim 30, Vaidyanathan disclose the computer-implemented method for a network-based facility wherein the first criteria comprise a minimum feedback amount (See Vaidyanathan, Page 4, Paragraphs 0035-0038).

(K) As per claim 31, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise a minimum value of the network-based transaction (See Vaidyanathan, Page 4, Paragraphs 0035-0038).

(L) As per claim 32, Vaidyanathan discloses the computer-implemented method for a network-based facility wherein the first criteria comprise a maximum number of

insurance claims has not been exceeded (See Vaidyanathan, Page 4, Paragraphs 0036-0037).

(M) As per claim 33, Vaidyanathan discloses a network-based marketplace facility, the network-based marketplace facility comprising: a network-based marketplace for facilitating a transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044); a complaint module, said complaint module receiving a complaint relating to the network-based transaction and communicating information about the complaint to the second party (See Vaidyanathan, Fig.6, Page 5, Paragraphs 0057-0060); a messaging board module, said messaging board module allowing the first party and the second party to repeatedly view and enter comments about the complaint relating to the network-based transaction (See Vaidyanathan, Page 7, Paragraphs 0076-0078).

Vaidyanathan does not explicitly disclose that a resolution module, said resolution module allowing the first party to specify if the complaint is resolved and allowing the first party to file an insurance claim concerning the complaint only if the complaint is not resolved and after a first criteria have been met (See Campbell, Fig.3; Page 5, Paragraph 0045 & 0048).

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggested that the network having a resolution module, said resolution module allowing the first party to specify if the complaint is resolved and allowing the first party to file an insurance claim concerning the complaint only if the

complaint is not resolved and after a first criteria have been met (See Campbell, Page 1, Paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Vaidyanathan with the motivation of providing a computer-based method and system for managing insurance claims (See Campbell, Page 1, Paragraph 0006).

(N) As per claim 41, Vaidyanathan discloses a computer-readable medium, said computer-readable medium comprising a set of computer instructions for: receiving a complaint from a first party, the complaint relating to a network-based transaction between a first party and a second party (See Vaidyanathan, Fig.1; Page 3, Paragraphs 0039-0044); communicating information about the complaint to the second party (See Vaidyanathan, Fig.6, Page 5, Paragraphs 0057-0060); allowing the first party and the second party to repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board (See Vaidyanathan, Page 7, Paragraphs 0076-0078); allowing the first party to specify if the complaint is resolved (See Vaidyanathan, Page 7, Paragraphs 0076-0078).

Vaidyanathan does not explicitly disclose allowing the first party to file an insurance claim concerning the complaint relating to the network-based transaction only if the complaint is not resolved and after a first criteria have been met.

However, this feature is known in the art, as evidenced by Campbell. In particular, Campbell suggested that the network having a resolution module, said

resolution module allowing the first party to specify if the complaint is resolved and allowing the first party to file an insurance claim concerning the complaint only if the complaint is not resolved and after a first criteria have been met (See Campbell, Page 1, Paragraph 0006).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Campbell within the system of Vaidyanathan with the motivation of providing a computer-based method and system for managing insurance claims (See Campbell, Page 1, Paragraph 0006).

(O) Claims 34-40, and 42-45 recite the underlying process as claims 22-23, 26-30 and 32, respectively. As the various elements of claims 22-23, 26-30 and 32 and have been shown to be either disclosed by or obvious in view of the collective teachings of Vaidyanathan and Campbell, it is apparent that the apparatus disclosed by the applied art performs the recited underlying functions. As such, the limitations recited in claims 34-40, and 42-45 are rejected for the same reasons given above for method claims 22-23, 26-30 and 32, and incorporated herein.

Response to Arguments

4. Applicant's arguments filed on 06/20/08 with respect to claims 21-45 have been fully considered but they are not persuasive.

(A) At pages 7-11 of the response filed on 6/20/08, Applicant's argues the followings:

i) Vaidyanathan reference fails to disclose or teach a system that allows users to "repeatedly view and enter comments about the complaint relating to the network-based transaction on a messaging board" in claim 21.

ii) Vaidyanathan reference explicitly teaches away from the messages board-centric system of the present invention as claimed in all pending independent claims.

(B) With respect to Applicant's first argument, Examiner respectfully submitted that He relied upon the clear teaching of Vaidyanathan whom teaches a record in Page 1, Paragraph 0011; Paragraph 0056 which correspond to Applicant's claimed feature. Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

(C) In response to Applicant's second argument that Vadyanathan reference teaches away, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the Applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the primary reference, Vadyanathan discloses in paragraph 0008 a solution disclosed in U.S. Pat. No. 5,895,450 provides a method and apparatus for handling complaints that allows complainants to lodge anonymous complaints against subjects, informs the subjects of the complaints, permits the subjects to respond to the complaints, encourages settlements of the complaints and holds the parties to the

complaints accountable for their conduct while attempting to resolve the complaints. A central computer is programmed to receive complaints and responses, store the complaints and responses in individual data records, and negotiate settlements to the complaints. Once the disputes are resolved, the settlements or judgments are stored along with their respective complaints and responses in the data records. The central computer is also programmed to provide public access to the data records to permit viewing of the corresponding complaints, responses, and settlements for allowing other users to gauge the conduct of the subjects and to encourage the subjects to respond to the complaints in a timely and satisfactory manner. Moreover, the central computer is programmed to monitor and rate the conduct and performance of both the complainants and the subjects during the course of the disputes. The ratings can be used to affect the outcome of the disputes and for other purposes to hold the parties accountable for their conduct during the attempted resolution of the disputes to encourage good conduct and cooperation between the parties during the course of the disputes. The second reference Campbel is directed to a computer-based method and system for managing insurance claims enables a claimant (with or without an attorney) and an insurance carrier to initiate, document, value, and negotiate an insurance claim in a timely manner while minimizing expense associated therewith. The claimant accesses the system over a network and is guided systematically from claim initiation to claim resolution. The claimant is provided with information on the credibility of the insurance claim and easy to use tools to help determine the value of the insurance claim. Additionally, the claimant is provided with an option to "auction" the insurance claim to an attorney in the

event negotiations between the claimant and the insurance carrier do not lead to a settlement. However, Vadyanathan is reasonably pertinent to the particular problem with which Applicant was concerned because there are in the same field of endeavor.

In response, the Examiner respectfully submits that obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re Rinehart*, 531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention. Moreover, in the instant case, the Examiner respectfully notes that each and every motivation to combine the applied references are accompanied by select portions of the respective reference(s) which specifically support that particular motivation and/or an explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness. As such, it is NOT seen that the Examiner's combination of references is unsupported by the applied prior art of record. Rather, it is respectfully submitted that explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons

indicated by the Examiner, *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93). Therefore, Applicant's argument is not persuasive and the rejection is hereby sustained.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the prior art teaches method and apparatus for handling complaints (5,895,450).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Vanel Frenel/

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September 17, 2008